

Job Creation Committee

Minutes from the October 26, 2015 Meeting

Call to Order & Establishment of Quorum

The Job Creation Committee (JCC) meeting was called to order by Chair Deborah Frye on Monday, October 26, 2015 in Conference Room Wo64 at 9:19 AM.

Committee Members present:

Deborah Frye

Joe Habig – SBA

Barbara Quandt-Underwood

John Wright

Allen Pope

IPLA Staff Members Present:

Kristin Schwartz

Lindsay Quyle - OMB

Chair Frye explained that, while a quorum of Committee members were present, the Committee would not be voting on Auctioneer Licensing. Because of the weight of the decision, Chair Frye wanted more of the members to have the opportunity to vote.

Review & Adoption of Agenda & August 20th Meeting Minutes

Chair Frye asked the Committee to review the agenda for this meeting and the minutes from the last meeting to offer any suggestions or corrections. After a few moments of review by the committee, Mr. Wright proposed a motion to approve the agenda for today's meeting and the minutes from the last meeting. Mr. Habig seconded. With no opposition, the motion carried.

Committee Discussion

Chair Frye addressed the Committee, "We will now hear a report from the Auctioneers Association. This will be the second time that the presentations from stakeholders, associations, professionals, and the general public are heard regarding the licensure of auctioneers. This is necessary, pursuant to statute IC 25-1-16-14, which states that the Committee shall seek public input when considering any proposals or reports concerning the elimination of a license or change to a regulated occupation. Preliminary recommendations were adopted by the JCC at the June 17th meeting to eliminate the Indiana Auctioneering Commission. The minutes will reflect that members of the public were in attendance at this meeting, and their opinions regarding proposed changes have been heard."

Report from the Indiana Auctioneers Association

Kathy Baber, Executive Director of the Indiana Auctioneers Association (IAA), presented to the Committee. She explained that Mike Brandly has done extensive research on this profession and provides training to auctioneers in Indiana, so he will present to the Committee as well. Mr. Brandly presented a PowerPoint presentation to the Committee. He explained that since

Indiana has roughly 5 million adults and approximately 2,800 licensed auctioneers, Indiana has highest density of auctioneers in the United States per capita. There is more auction activity in Indiana than the rest of the country. He explained that 22 other states license auctioneers on a comprehensive level, either on a state, county, or local municipality level. He proposed that greater populations are conducive to more auctions, which requires more auctioneers. In the United States, 85% of auctioneers are licensed on the state level. He explained the benefits of licensing auctioneers, which included higher standard of education through auctioneer training schools and continuing education requirements, and protection for the public from incompetent auctioneers through a state-supervised recovery fund. He also mentioned reciprocity with other states who require auctioneers to be licensed and revenue for the State through auctioneer licensing fees as other benefits from licensing. Mr. Brandly remarked that some auctioneers would be willing to pay higher licensing fees, since Indiana's fees are among the lowest in the nation. He mentioned that over \$26 billion worth of goods will sell at auctions in Indiana in 2015, and that accounts for about \$5,000 for every adult in Indiana. Mr. Brandly further explained that Indiana's state-licensure is seen as impressive to other states, and Ohio and Virginia have both adopted state-level licensing programs based on Indiana's model.

Chair Frye asked where Mr. Brandly predicts auction revenue will increase. He explained that it is mostly likely real estate and car auctions, as consumers tend to find auctions for these items to be more efficient than purchasing through the traditional sales methods. Mr. Wright asked if eBay is licensed at all as a facilitator of auctions. Mr. Brandly explained that eBay requires auctioneer licenses for people selling other peoples' property in six other states, not including Indiana. Mr. Brandly elaborated that eBay has an interest in avoiding licensing requirements for online auctioneers. Mr. Pope asked how this auctioneer licensing applies to real estate sales across state lines. Mr. Brandly explained that most real estate is local, with a small amount of inter-state real estate commerce. Mr. Pope asked about licensing requirements for out-of-state developers looking to invest in multiple states. Mr. Brandly explained that if the property is in one state, then the auctioneer would need to be licensed in the state where the property is located. Mr. Pope asked about car auctions and if auctioneers tend to specialize in certain types of auctions. Mr. Brandly explained that there is a tendency to specialize in a certain type of auction, but there is no specialized license for car auctioneers versus antique auctioneers. Mr. Pope asked why there is such a large auction industry in Indiana versus larger states such as California. Mr. Brandly explained that it is mostly rooted in tradition, and Indiana has been a state longer than other larger West Coast states. Mrs. Quandt-Underwood asked about New York's lack of licensing requirements for auctioneers. She asked if that state has a problem with unscrupulous providers due to the lack of licensing. Mr. Bradley responded that there is not a lot of data about that topic, because no one is collecting it. He assumes that most people who are harmed by unscrupulous auctioneers do not have the financial means to pursue recourse in civil court. He explained that auctioneer licensing is generally a preventative measure.

Bill Davis, IAA member and former Indiana State Representative, presented to the Committee. He remarked that Mr. Brandly had covered most of what he wanted to say very well. As a former State Representative, he has concerns about protecting consumers, since auctioneers are responsible for selling estate items along with many other valuable items. Mr. Davis believes that Indiana has very high standards for licensing and continuing education requirements, and

he thinks it is important for Indiana to be a model for other states and a model for consumer protection. Mr. Davis also believes that changing the current licensing standards for this profession could harm jobs for auctioneers and other staff associated with auctions. He believes that leaving the current system in place would be best.

Melissa Davis, President and owner of Reppert Auction School and Past President of IAA, presented to the committee. She remarked that the Reppert Auction School is the second oldest auction school in the country. Ms. Davis explained that she is a licensed auctioneer in Indiana and is also licensed in all other states except Pennsylvania. She believes that state licensing is critical for her business and the school. The purpose of attending an auction school is to learn the complexities of the auction business including ethics, best business practices, collection of sales tax, and identification of illegal items. She believes that the removal of state licensing for auctioneers would hurt her business and generally discourage people from entering the auctioneer profession as business owners. Chair Frye asked about the number of education hours that are required for state licensure. Ms. Davis explained that her school requires 100 hours, but the state licensing requirements only requires 80 hours.

Mr. Pope briefly mentioned that the reports from the Attorney General's office about licensed auctioneers show a general trend downwards for complaints for this profession. He remarked that sometimes these complaints trend with the economy. Otherwise, he sees nothing remarkable about the data for complaints against licensed auctioneers. Chair Frye asked about the frequency of use of the State's Recovery Fund for consumers harmed by unscrupulous auctioneers. Kathy Baber, IAA member, responded that she believes it is very low and that there has been approximately one claim within the last 12-18 months.

Committee Discussion & Vote

Chair Frye explained that the Committee could vote on this issue today, but because of the importance of the issue it would be preferable to have a larger quorum present. She said that the Committee will vote once the additional members have time to review the material, and a vote is expected to occur in April of 2016.

Presentation from the Indiana Real Estate Commission

Blake Weaver, Board Director for the Indiana Real Estate Commission, presented to the Committee. He explained that there is only one real estate broker license for any professional who sells, buys, trades, exchanges, leases, rents, manages, lists, or appraises real estate. Otherwise, there is a managing broker license and a broker company license. There are currently 21,119 active real estate broker licenses in Indiana and 2,543 active broker company licenses. There are 24 active providers of pre-licensing courses, and those providers must be approved by the Real Estate Commission before they can begin practicing. There are currently 79 active providers of continuing education, and they also must be approved by the Commission. He explained the history and composition of the Commission, along with its role to safeguard the public interest in this profession, along with reviewing license applications, considering requests for restitution from consumer protection funds, and promulgating rules. He remarked that the staffing for this Board is typical of other IPLA Boards. He also mentioned that the cost of a real

estate license in Indiana is very low compared to other states. The cost of a broker's license is \$65.50 every three years.

Presentation from the Indiana Attorney General's Office re: Real Estate Brokers

Derek Peterson, Deputy Attorney General, presented to the Committee. His report included data regarding all consumer complaints received by the Attorney General's (AG) office between 2008 and 2014. His report was primarily focused on volume and outcome of the complaints. He remarked that 582 complaints were received in 2012, but the number has declined significantly since then. Most of the complaints were concerning fraud, unprofessional conduct, professional incompetence, and unlicensed practice. He explained that few fraud cases can be litigated because fraud can only be prosecuted if there is found an intent to commit fraud. He said that most of the litigation completed resulted in either no violation found, reprimand, probation, warning, or revocation.

Ms. Frye asked about the reason behind the high volume of complaints in 2012. Mr. Peterson explained that the AG's office uncovered a lot of fraud that year and it took them a while to process all the cases. He explained that the AG's office strives to open and close each case within a year of the initial complaint, and usually that goal is accomplished.

Report from the Indiana Association of Realtors

Bruce Bright, President of the Indiana Association of Realtors (IAR), presented to the Committee. He explained that the IAR has a long history of supporting real estate broker licensure in Indiana. Up until recently, he remarked that licensing requirements in Indiana had not been changed in almost 30 years, but recently IAR has started reviewing requirements in order to suggest potential changes. He explained that all 50 states license real estate professionals. Real Estate industry accounted for 13.7% of the Gross State Product in 2012, making it a large part of Indiana's economy.

Ms. Frye asked Mr. Bright if he has seen any impact from changes to state licensure requirements made in 2013. Mr. Bright responded that the change mostly affected continuing education and pre-licensing requirements. Ms. Underwood asked about the high volume of paperwork required for real estate sale. Mr. Bright explained that Indiana does not require an attorney to be present at closing, so Indiana has a generally easier closing process than other states despite the high paperwork volume. He remarked that closing regulations are generally dictated through federal regulations. Mr. Pope asked about the \$11,000 commission from each real estate transaction for brokers and how that compares to federal levels. Mr. Bright explained that commission is usually higher in other states, as home prices are generally lower in Indiana. Ms. Frye asked Mr. Bright if he recognizes any hindrances or barriers to entry in the real estate profession. Mr. Bright responded that the biggest hindrance he can see is an aging population within the industry. Many in his profession are from the baby-boomer generation, and he does not see a lot of younger people coming into the profession. He explained that he does not believe the issue of an aging workforce in the profession is a licensing issue, rather it is the nature of commission-based professions. He believes that the cost of the classes and exams are not a barrier to entry, and he has seen that most people looking to enter the profession are more concerned with the task of supporting themselves as they get established in the business. Ms.

Underwood asked how the number of real estate professionals who are full-time compares to those who are part-time. Mr. Bright explained that there is no mandatory reporting of full versus part-time work, plus he sees a big generational shift in younger people not interested in the real estate profession. He believes that younger generations are looking for a profession with a good work/life balance, so they are generally not interested in the long work hours of being a realtor. Mr. Habig asked for Mr. Bright's opinion of the use of technology in the real estate profession. Mr. Bright responded that roughly 95% of buyers begin their real estate search online, so technology is a large part of the profession now. He explained that technology and the Internet have changed how marketing is done for real estate, and some of the licensing regulations were modified to facilitate online real estate marketing. He believes that technology gives consumers great information that was not previously available. However, he elaborated that he still believes that technology cannot meet all consumer needs, and real estate professionals are still necessary to fill that need.

Ms. Frye asked Mr. Bright if there are any underserved areas in Indiana where more licensed real estate brokers are needed. Mr. Bright responded that about 40% of IAR members are located in central Indiana, and generally there is not a shortage of real estate brokers across the state.

BREAK FOR LUNCH

The committee took a break for lunch at 11:30 AM and reconvened at 1:04 PM.

Presentation from the Indiana Real Estate Appraiser Board

Blake Weaver, Board Director, presented to the Committee. He explained that staffing for this Board is identical to other IPLA Boards. He described the license types overseen by this Board, including certified general appraiser, certified residential, and trainee. He remarked that there are 22 active licenses for Continuing Education Course Providers, which are all approved by the Board. Mr. Weaver explained the establishment, composition, and role of the Board. He explained that the role of the Board is to safeguard public interest within this profession and review the credentials of license applicants. He also explained licensing fees for this profession, which includes an initial application fee of \$100 and then a \$190 renewal fee every other year.

Presentation from the Indiana Attorney General's Office, re: Real Estate Appraisers

Derek Peterson, Deputy Attorney General, presented to the Committee. He explained that appraisers are an interesting class in the real estate profession. His reports showed that fewer complaints were recorded for this profession from 2008-2014 than the real estate broker profession. His data shows a peak of complaints in 2009, which correlates with the housing crisis, before which many inaccurate appraisals were conducted. He explained that there have been a lot of regulations since then to prevent another housing crisis. His data shows that professional incompetence has been the violation most investigated by the AG's office, with fraud as the second biggest violation. Mr. Petersen explained that appraisers have a specific code of conduct to provide consumers. He elaborated that the AG's office a few years ago had an agreement with the Appraisal Institute that if someone violated a lower standard issue, the AG's office has the flexibility to first investigate the issue via interviews before filing formal charges.

The AG's office has been known to offer additional education requirements to violators instead of filing charges against them. Due to this agreement within the profession, the number of cases litigated has significantly decreased. He explained that this profession is very heavily policed because it involves most consumers' biggest assets, usually homes. Ms. Frye asked about how a consumer receives restitution when they are harmed by a bad appraiser or appraisal. Mr. Peterson explained that some complaints are legitimate, while other complaints are actually consumers disagreeing with an appraisal. He explained that if an appraisal is slightly inaccurate, but the procedure and rationale used to reach that value is solid, then that's not considered a violation. He elaborated that the AG's office is more concerned with how an appraiser reached that appraised value, not the exact value of the real estate. Mr. Habig asked if real estate brokers can conduct appraisals. Mr. Peterson responded that brokers can do appraisals under certain circumstances. A broker's price opinion, for example, is not an appraisal, just an opinion of what the home would sell for and not the actual value.

Report from the Appraisal Institute

Steve Shockley, President of the Hoosier State Chapter of the Appraisal Institute, presented to the Committee. Mr. Shockley explained that 12-15% of licensed real estate appraisal professionals are not affiliated with any entity and are self-employed. Mr. Pope asked about the definition of an appraisal and asked if Indiana is required to license appraisers to meet federal mandates or federal bank regulations. Mr. Shockley explained that each state has chosen different ways to license appraisers. Kentucky's licensure program requires that if a professional offers any opinion of value, then they must have an appraiser license. Other states have softer mandates, including Indiana, that only require a professional appraisal license if an appraisal is done for a bank loan. Mr. Shockley remarked that there are a lot of overlays in which activities specifically require an appraiser license and which do not. He explained that the Real Estate Commission has jurisdiction if an appraiser conducts a bad appraisal, because a real estate broker can also conduct an appraisal. However, he elaborated that licensed appraisers can only do very specific kinds of appraisals, usually regarding a bank or loan. Mr. Pope proposed that if Indiana's current definition of appraisers does not exactly include federal mandates, he suggests that the committee draft legislation to update this definition. Mr. Pope is concerned about ensuring that the language in the Indiana definition of appraisers matches the federal definition. Ms. Frye asked if every state requires licensure for this profession. Mr. Shockley explained that if the transaction has any kind of federal component, the federal government requires the professional license. Anything else within a state doesn't necessarily require one. Mr. Habig asked about the trainee license and what that license entails. Mr. Shockley explained that the trainee license is basically an apprenticeship for 2-3 years where the trainee follows a licensed appraiser to learn the trade. Ms. Quyle asked for the reasoning behind Indiana and North Carolina being the only two states that require an exam to obtain a trainee license. Mr. Shockley responded that the national organization suggested it as a means to prepare trainees for the final licensing exam, which is known to be quite difficult. He believes that the trainee exam was created as a means to "weed out" people who would likely not be able to pass the final licensing exam. He elaborated that trainees take the exam after completing their classroom requirements for licensing. Ms. Frye asked if they believed that their professional licensing fees were fair, and Mr. Shockley explained that Indiana's fees are significantly less than most other states.

Committee Discussion

No concluding discussion was requested by the members of the committee.

Adjournment

Chair Frye asked the Committee for a motion to adjourn. Mr. Habig proposed a motion to adjourn, and Mr. Wright seconded. Without opposition, the motion carried and the meeting was adjourned.

NEXT SCHEDULED MEETING

April 21, 2016

@ 9:00 AM

Indiana State Library

315 W Ohio St, Room 401

Indianapolis, IN 46204